



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 9, 1998

Mr. William Toles
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
City Hall
Dallas, Texas 75201

OR98-1425

Dear Mr. Toles:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 116357.

The Dallas Police Department (the "department") received a request for its entire file concerning an incident that occurred on July 2, 1995 and involved Hector Fernandez. You assert that the requested information is excepted from required public disclosure based on section 552.101 of the Government Code. We agree.

Section 552.101 excepts from disclosure information that is deemed confidential by law, including information that is deemed confidential by statute. You raise former Family Code section 51.14(d),¹ which provides, in pertinent part:

(d) Except as provided by Article 15.27, Code of Criminal Procedure, and except for files and records relating to a charge for which a child is transferred under Section 54.02 of this code to a criminal court for prosecution, the law-enforcement files and records [concerning a child] are not open to public inspection nor may their contents be disclosed to the public.²

¹The Family Code was substantially amended by the Seventy-fourth Legislature including the repeal of section 51.14. Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Sess. Law Serv. 2517, 2590. However, the amendments to the Family Code apply only to conduct that occurs on or after January 1, 1996. *Id.* § 106, 1995 Tex. Sess. Law Serv. at 2591. "Conduct that occurs before January 1, 1996, is governed by the law in effect at the time the conduct occurred, and that law is continued in effect for that purpose." *Id.*

²Act of May 22, 1993, 73d Leg., R.S., ch 461, § 3, 1993 Tex. Gen. Laws 1850, 1852, *repealed by* Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Sess. Law Serv. 2517, 2590.

The information consists of law enforcement records of an offense committed by a juvenile before January 1, 1996. Conduct that occurs before January 1, 1996, is governed by the law in effect at the time the conduct occurred, and that law is continued in effect for that purpose. Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Sess. Law Serv. 2517, 2590 (repealing former section 51.14 as applied to records of conduct that occurs on or after January 1, 1996).

In Open Records Decision No. 181 (1977) at 2, this office held that former section 51.14(d) excepts police reports which identify juveniles or furnish a basis for their identification. *See also* Open Records Decision No. 394 (1983) at 4-5 (applying former Fam. Code § 51.14(d) to "police blotter" and related information). You do not indicate that the information at issue here relates to charges for which the city transferred the juvenile under section 54.02 of the Family Code³ to a criminal court for prosecution, nor that article 15.27 of the Code of Criminal Procedure⁴ applies. Moreover, we do not understand any of the exceptions to former section 51.14(d) to apply here.⁵ Section 552.101 of the Government Code excepts from required public disclosure information made confidential by law, including information made confidential by statute. Accordingly, we conclude that the city must withhold the submitted information from the requestor under Government Code section 552.101 as information deemed confidential by statutory law, but with one exception. We do not believe former section 51.14(d) covers the autopsy report. Autopsy reports prepared by a medical examiner are public records. Code Crim Proc. art. 49.25, § 11; *see* Open Records Decision No. 529 (1989).

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Hasting
Assistant Attorney General
Open Records Division

³Act of May 25, 1973, 63d Leg., R.S., ch. 544, § 1, 1973 Tex. Gen. Laws 1460, 1476-77, *amended* by Act of May 19, 1975, 64th Leg., R.S., ch. 693, §§ 15-16, 1975 Tex. Gen. Laws 2152, 2156-57 (adding subsecs. (m), (j), (k)), *amended* by Act of May 8, 1987, 70th Leg., R.S., ch. 140, §§ 1-3, 1987 Tex. Gen. Laws 309 (amending subsecs. (a), (h), (j)).

⁴Act of May 22, 1993, 73d Leg., R.S., ch. 461, § 1, 1993 Tex. Gen. Laws 1850-51.

⁵*See id.* § 3, 1993 Tex. Gen. Laws at 1852 (repealed 1995) (former Fam. Code § 51.14(d)(1), (2)).

KHH/rho

Ref.: ID# 116357

Enclosures: Submitted documents

cc: Ms. Beth Fancher
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(w/o enclosures)